

### VIA ELECTRONIC FILING

<b>DECLARATION UNDER 37 CFR § 1.132</b>  Address to: Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Attorney Docket No.	TOSK-007CON
	Confirmation No.	5245
	First Named Inventor	FOGARTY, PATRICK
	Application Number	10/659,802
	Filing Date	September 10, 2003
	Group Art Unit	1632
	Examiner Name	Montanari, David A.
	Title:	"ANIMAL INTEGRATION VECTOR AND METHODS FOR ITS USE"

### DECLARATION UNDER 37 CFR § 1.132

Sir:

I, Patrick Fogarty, declare as follows:

1. I am the inventor of the subject matter described and claimed in U.S. Patent Application No. 10/659,802, filed September 10, 2003, entitled "ANIMAL INTEGRATION VECTOR AND METHODS FOR ITS USE" (hereinafter "the '802 Application").

2. I am a co-inventor, along with Joseph Lipsick, listed on U.S. Patent Application Serial No. 09/561,176 filed April 27, 2000, entitled "P ELEMENT DERIVED VECTOR AND METHOD FOR ITS USE," issued on September 18, 2001 as U.S. Patent No. 6,291,243 (hereinafter "the '243 Patent").

3. I understand that the '243 Patent is being cited by the Patent Office to anticipate the claims of the '802 Application pursuant to 35 U.S.C. §102(e).

4. I understand that an element of the claims in the '802 Application is a P-element derived vector comprising a single transcriptionally active gene.

5. I understand that the Examiner asserts that the '243 Patent anticipates this claim element by referring to col. 5, lines 5-9 of the '243 Patent, which states:

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vectors that include a single transcriptionally active gene. In vectors of this embodiment of the subject invention, the promoter that is part of the transcriptionally active gene may be any of those described above, e.g. SV40, with the proviso that the promoter is not a CMV promoter. Vectors of this embodiment that include a single transcriptionally active gene may be prepared and used as described below, where the following description is provided in terms of vectors that include at least two transcriptionally active genes.  
Methods of Preparing the Subject Vectors

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6. To the extent that the "single transcriptionally active gene" element of the present claims is disclosed (if at all) in the specification of the '243 Patent, this particular claim element was not conceived of by Joseph Lipsick. Instead, this element was conceived of solely by me alone.

7. Accordingly, I hereby declare that I am the sole inventor of the "single transcriptionally active gene" element of the present claims, assertedly disclosed in the cited '243 Patent and relied upon in the above-summarized rejection.

8. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Date: 12/31/08

By:   
Patrick Fogarty